

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

HAROLD C. APISDORF

Claim No. CU-0626

Decision No. CU 3786

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$4,170.66 plus interest was presented by HAROLD C. APISDORF based upon the asserted ownership and loss of interests in bonds issued by the Cuba Railroad Company and the Centro Asturiano de la Habana. Claimant has been a national of the United States since birth.

Under Section 503 of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §1643-1643k (1964), as amended, 79 Stat 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

loss resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Bond of the Cuba Railroad Company

In our decision entitled the Claim of Joseph Gans (Claim No. CU-1720 which we incorporate herein by reference), we held that the properties of the Cuba Railroad Company were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is allowable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per original \$1,000 bond as \$492.86 including interest to October 13, 1960.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Gans Decision; that he was an American national at the requisite times; that he has been the owner of one First Mortgage bond issued by the Cuba Railroad Company since prior to October 13, 1960; and that he suffered a loss in the amount of \$492.86 within the meaning of Title V of the Act.

Bonds of The Centro Asturiano de la Habana

The Commission finds on the basis of the evidence of record, including the evidence in the related claim No. CU-2593, which will be decided on its own merits, that claimant acquired on December 2, 1952 a one-third interest in certain bonds of the issue known as 6% mortgage bonds of the Centro Asturiano de la Habana, Series A, in the face amount of \$23,000.00 which had been on deposit with the First National City Bank of New York, Havana Branch.

On September 17, 1960, the Cuban Government published in its Official Gazette Resolution 2 pursuant to Law 851, which listed as nationalized the First National City Bank of New York. The Commission finds that upon the nationalization of the Havana branch of the First National City Bank of New York, the bonds in which claimant owned a one-third interest, on deposit with that bank, were also taken by the Government of Cuba on September 17, 1960, and concludes that claimant sustained a loss within the meaning of Title V of the Act on that date.

The record shows that prior to September 17, 1960 the face amount of the 23 bonds had been reduced by partial payments to \$11,132.00. The Commission finds that on September 17, 1960, the date of loss, the value of claimant's interest in the bonds was \$3,710.66.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claim Settlement Act of 1949, as amended, interest should be included at that rate of 6% per annum from the date of loss to the date of settlement (see the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
9/17/60	\$3,710.66
10/13/60	<u>492.86</u>
	<u>\$4,203.52</u>

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that HARRY C. APISDORF suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Thousand Two Hundred Three Dollars and Fifty-Two Cents (\$4,203.52) with interest at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission

30 JUL 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)